REMARKS

In view of the following discussion, none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. § 103. Claims 1 and 12 are amended. Support for the amendment may be found in the Specification on at least page 7, lines 13-20. In addition, various claims were amended to address various informalities. No new matter was added. Thus, all of these claims are now in allowable form.

The Assignee's representative attempted to contact the Examiner multiple times to schedule an Examiner interview, but no response was received. However, upon reviewing this response, if the Examiner believes a discussion would be helpful to clarify the issues before issuing a subsequent office action, the Examiner is encouraged to contact the Assignee's representative.

I. REJECTION OF CLAIMS 1-19 UNDER 35 U.S.C § 103

The Examiner rejected claims 1-19 in the Office Action under 35 U.S.C. §103 as being unpatentable over Bradley, et al. (U.S. Patent No. 7,082,463, issued July 25, 2006, herein referred to as "Bradley") in view of Basturk (U.S. Patent No. 7,111,074, issued on September 19, 2006, hereinafter referred to as "Basturk") and Huang, et al. (U.S. Patent No. 7,149,917, issued on December 12, 2006, hereinafter referred to as "Huang"). It is noted that the Examiner failed to include Huang in the heading, but included Huang in the detailed rejection. Under such assumption, the rejection is respectfully traversed.

Bradley discloses time-based monitoring of service level agreements. The network provides time ranges for one or more tests to be performed to allow a customer to determine if they are being provided services in accordance with their SLA. (See Bradley, Abstract; col. 2, l. 60 - col 3, l. 5).

Basturk discloses a control method for data path load-balancing on a data packet network. The control system is used for controlling data flow over a data-packet-network according to specific destinations. (See Basturk, Abstract).

Huang discloses a method and apparatus for outage measurement. An Outage Management System (OMS) monitors and measures outage data at a

network processing device that is used to derive outage information. (See Huang, Abstract).

The Examiner's attention is directed to the fact that Bradley, Basturk and Huang, alone or in any permissible combination, fails to describe or suggest a system, method or server for making quality measurements in a network comprising means for charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures, as positively claimed. Specifically, independent claims 1, 8 and 12 positively recite:

> 1. A system for making quality measurements in a network having a plurality of routers for routing traffic through the network, the system comprising:
>
> means for taking measurements on each path of all paths within the network, wherein the each path is between a pair of routers from the plurality of routers; and
>
> means for charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures and tracking a number of degradations for each one of the plurality of routers in the network over a period of time. (Emphasis added).
>
> 8. A method of making quality measurements in a network, the method comprising:
>
> monitoring an R-Factor for each path of all paths within the network, wherein the each path is between a pair of routers;
>
> tracking a path that exhibits the R-Factor below a target value;
>
> tracking a start time indicating when the R-Factor of the path falls below the target value;
>
> tracking an end time indicating when the R-Factor of the path rises above the target value;
>
> determining if an overlap exists between the start time and the end time for multiple paths connecting to a particular router;
>
> charging the particular router connected to the multiple paths with one degradation if the overlap exists;
>
> charging the particular router with each degradation connected to the multiple paths if the overlap does not exist; and
>
> tracking a number of degradations for each router of all routers in the network over a period of time. (Emphasis added).

12. A server for making quality measurements in a network, the server comprising:

means for taking measurements on each path of all paths within the network, wherein the each path is between a pair of routers from the plurality of routers; and

means for charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures and tracking a number of degradations for each one of the plurality of routers in the network over a period of time. (Emphasis added).

In one embodiment of the disclosure, a system, method and server are for making quality measurements in a network comprising means for charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures. For example, even though a router may be responsible for multiple path failures, only a single degradation is charged against the particular router. (See e.g., Specification, p. 7, ll. 13-20).

The alleged combination (as taught by Bradley) fails to render obvious independent claims 1, 8 and 12 because the alleged combination fails to describe or suggest a system, method or server for making quality measurements in a network comprising means for charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures. Bradley mentions tracking duplicate polling request (see Bradley, col. 8, l. 40 – col. 9, l. 30). However, polling duplicate polling requests is not equivalent to charging a single degradation against a particular router of the plurality of routers within a path when data related to the measurements falls below a target value even though the particular router is responsible for multiple path failures.

In stark contrast, claims 1, 8 and 12 recite charging a single degradation against a particular router of the plurality of routers within a path when data

related to the measurements falls below a target value even though the particular router is responsible for multiple path failures. As a result, a more accurate picture of router performance can be captured by charging a particular router for only a single degradation even though the router is responsible for multiple path failures.

Furthermore, Basturk and Huang fail to bridge the substantial gap left by Bradley. Basturk only describes measuring a cost of each path between routers. (See Basturk, col. 5, ll. 36-65). Basturk provides costs variables to specific routers to calculate a cost of a particular path. (See Basturk, generally throughout, col. 6, ll. 5-67). In stark contrast, the claims measure path data between routers to identify a particular router associated with the path when the data measurements of the path fall below a threshold.

Huang discloses monitoring only a subset of links within the network. Specifically, Huang discloses monitoring network processing devices that constitute "a single point of failure". (See Huang, col. 2, ll. 59-67). Moreover, only links between a router and a customer equipment are monitored. (See *Id.* and generally throughout). Thus, the combination of Bradley, Basturk and Huang fails to render obvious independent claims 1, 8 and 12.

Furthermore, dependent claims 2-7, 9-11 and 13-19 depend from independent claims 1, 8 and 12, respectively, and recite additional limitations. For the same reasons discussed above, these dependent claims are also not rendered obvious by the combination of Bradley, Basturk and Huang and are allowable. As such, the rejection should be withdrawn.

CONCLUSION

Thus, all the claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 842-8110 x130 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully Submitted,

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